REMARKS

Claims 1-9 have been examined, and have been rejected under 35 U.S.C. § 103(a).

Preliminary Matters

Applicant is submitting herewith a substitute formal drawing, and respectfully requests the Examiner to indicate whether such drawing is acceptable.

Further, Applicant has made minor amendments to the Abstract and claims to remove the reference numerals listed therein, and for clarification purposes. Applicant submits that such amendments do not narrow the scope of the claims, and are not made in view of the prior art.

Newly Added Claims

Applicants have added claims 10-12 to provide more varied protection of the present invention. Applicant submits that such claims are patentable for at least analogous reasons as presented below for claim 1. Support for the newly added claims is found, for example, in claims 1, 2 and 8.

Rejections under 35 U.S.C. § 103(a)

A. Claims 1-2, 4 and 5-9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 0814632 to Aida et al. ("Aida") in view of the ATM standards ("ATM Standards Specification").

1. Claim 1

Applicant submits that claim 1 is patentable over the cited references. For example, claim 1 recites that a "bandwidth allocated to each downward virtual path is variable under the control of a means, such as a call control means", where the call control means is provided upstream in a switching node. Further, the "upward virtual paths have a fixed bandwidth."

The Examiner maintains that the combination of Aida and the ATM Standards Specification disclose the above features. Applicant respectfully traverses the rejection. Aida is directed to determining whether, in an ATM system, connections of a received connection request should be allowed. In a case where the connection is allowed, the reference evaluates the quality of service, from a high to low priority, such that cells of higher priority levels are transmitted prior to cells of lower priority levels (pg. 4, lines 46-55).

Aida fails to disclose any information regarding bandwidth allocations to both an upward and downward virtual path. On page 3 of the Office Action, the Examiner maintains that pg. 6, line 46-pg. 11, line 9, of Aida, supports variable downstream bandwidth and fixed upstream bandwidth, and further, that the connection admission control section 1 discloses the claimed control means (Fig. 2 of Aida). The portion cited by the Examiner, however, merely discloses various computations of bands of cells used to determine whether or not a connection has been allowed. The computations are performed by the connection admission processing section 1b. Applicant submits that the computations of bands of cells , and the determination of whether or

not a connection has been allowed, fails to disclose the claimed control means or bandwidths of the claimed upward and downward virtual paths (pg. 6, lines 43-46 of Aida).

The Examiner has further cited to the ATM Standards Specification. The Examiner maintains that the ATM Standards Specification teaches the details of the ATM service classes and traffic controls (pg. 2 of Office Action). However, the Examiner has not cited to any specific portions of the ATM Standards Specification which would cure the deficient teachings of Aida discussed above. Accordingly, Applicant submits that claim 1 is patentable over the cited refernces.

In addition even if the Applicant assumes *arguendo* that the ATM Standards Specification discloses the varying and fixed bandwidths and control means recited in claim 1, Applicant submits that one skilled in the art would not be motivated to combine Aida, which is directed to allowance of connections and low/high priority of the connections, with the alleged bandwidth teachings of the ATM Standards Specification. Rather, it appears that the Examiner is using impermissible hindsight in making the rejection. For example, the Examiner's proffered motivation to combine the references, i.e. "to manage the available network bandwidth more efficiently for situations requiring asymmetrical bandwidth" (pg. 5 of the Office Action), is disclosed in the present Application as being one of the advantages of the Applicant's invention, i.e. "The invention takes advantage of the asymmetrical character of the traffic." (pg. 3 of the present Application). Therefore, it appears that the Examiner's motivation was provided by the Applicant's disclosure, rather than the prior art.

In view of the above, Applicant submits that claim 1 is patentable over the combination of the cited references, and respectfully requests the Examiner to reconsider and withdraw the rejection.

Further, due to the extensive length of the ATM Standards Specification, i.e. 100 pages, Applicant respectfully requests the Examiner to specifically point out the portions relied upon by the Examiner when making the rejections (i.e., if the above rejection is to be maintained, or alternatively, if the ATM Standards Specification is to be used in combination with another reference).

2. Claims 2 and 4

Since claims 2 and 4 are dependent upon claim 1, Applicant submits that such claims are patentable at least by virtue of their dependency.

3. Claims 5-7

Since claims 5-7 have been canceled, without prejudice or disclaimer, Applicant submits that the rejection of such claims is now moot.

4. Claim 8

Since claim 8 contains features which are analogous to the features recited in claim 1, Applicant submits that claim 8 is patentable for at least analogous reasons as presented above.

5. Claim 9

Since claim 9 is dependent upon claim 8, Applicant submits that such claim is patentable at least by virtue of its dependency.

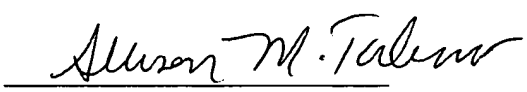
B. Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Aida in view of ATM Standards Specification and U.S. Patent No. 6,597,689 to Chiu et al. ("Chiu"). However, claim 3 is dependent upon claim 1. Applicant has already pointed out above the deficient teachings of the ATM Standards Specification with respect to the bandwidth allocations in the upward and downward virtual paths, and regarding the proffered motivation to combine the references. Applicant submits that Chiu fails to compensate the ATM Standards Specification reference. Therefore, even if taken together, the combined teachings of the references fail to meet the above-identified limitations. Accordingly, Applicant submits that claim 3 is patentable at least by virtue of its dependency.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Allison M. Tulino
Registration No. 48,294

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